



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,495	07/17/2003	Andrew B. Mendenhall	20341-72825	2614

23643 7590 04/06/2004

BARNES & THORNBURG  
11 SOUTH MERIDIAN  
INDIANAPOLIS, IN 46204

EXAMINER
----------

CRANMER, LAURIE K

ART UNIT	PAPER NUMBER
----------	--------------

3636

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/621,495	MENDENHALL ET AL.	
	Examiner	Art Unit	
	Laurie K. Cranmer	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-18 and 21-30 is/are rejected.
- 7) ☒ Claim(s) 5-8, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/17/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### ***Claim Objections***

Claim 16 is objected to because of the following informalities: In line 3 "the stack" should be changed to —the stacker—to provide proper antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9-13 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Barile.

The guide bumper is 36, the leg pad is area 38 which contacts the underlying chair, the pad support is the portion between 38 and 24 as seen in Fig. 2; the anchor plate is item 48, the floor engager is 26, the throat of the anchor plate is the opening through which item 29 is received, the retainer comprises items 42 and 44, the ball and socket is item 30.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3636

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barile.

Barile teaches a chair substantially as claimed except for the first pad support lying perpendicular to leg pad and including a second pad support; however, to support the pad with two supports instead of one solid support is considered to be an obvious choice to one of ordinary skill in the art depending on the desired strength of the guide bumper and the economics thereof. Furthermore, the central axis of the support lies perpendicular to the pad as seen in Figs. 3 and 4.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barile as applied to claim.1 above, and further in view of Brock.

Barile teaches an upper chamber (which receives leg 14), a throat in the anchor plate 48 through which post 29 extends, a leveler retainer 44, 42, substantially as claimed except for the leg sleeve having a lower chamber.

The patent to Bock teaches a lower chamber (defined by wall 32) opening toward the foot leveler to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the sleeve of Barile such that it had a lower chamber

Art Unit: 3636

as taught to be conventional by Bock thereby providing the obvious advantage of protection for the foot leveler.

Claims 16-18 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barile as applied to claims 1 and 21 above, and further in view of Haynes.

Haynes teaches a stacker bumper 20a coupled to the upper ends of each chair leg to assist in supporting the seat frame in the stacked position so as to minimize marring and scratching of the first of the legs and the adjacent leg and includes a leg pad (the flat contact area of 20a).

It would have been obvious to one of ordinary skill in the art to modify the Barile device such that it had a stacker bumper as taught to be old by Haynes thereby providing the obvious advantage of greater stability a protection for stacked chairs.

***Allowable Subject Matter***

Claims 5-8, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie K. Cranmer whose telephone number is 703-308-2115. The examiner can normally be reached on T-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 703-308-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laurie K. Cranmer  
Primary Examiner  
Art Unit 3636

LKC  
3/31/04